

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00158-MR-WCM**

**CHRISTOPHER LYNN WILSON;
TYANNA ARLENE WILSON; and
CHRISTOPHER GEORGE WOODYBY,**

Plaintiffs,

vs.

**ASSOCIATED PETROLEUM
CARRIERS, INC; CHRISTOPHER
LEWIS SCOTT; PETROLEUM
CARRIERS, INC.; and CD ENERGY,
LLC,**

Defendants.

ORDER

THIS MATTER is before the Court on the Defendants' Partial Motion to Dismiss Plaintiffs' Amended Complaint [Doc. 26]; the Defendants' Motion for Judgment on the Pleadings [Doc. 29]; the Magistrate Judge's Memorandum and Recommendation [Doc. 39] regarding the disposition of those motions; and the Defendants' Objections to Magistrate Judge's Memorandum and Recommendation [Doc. 40].

Pursuant to 28 U.S.C. § 636(b) and the Standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate

Judge, was designated to consider the Defendants' motions and to submit a recommendation for their disposition. On April 11, 2022, the Magistrate Judge issued a Memorandum and Recommendation, recommending that the Defendants' Partial Motion to Dismiss Plaintiffs' Amended Complaint be denied and that the Defendants' Motion for Judgment on the Pleadings be granted in part and denied in part. [Doc. 39]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. [Id.]. The Defendants timely filed their Objections on April 24, 2022. [Doc. 40]. The Plaintiffs filed their Replies to the Defendants' Objections on May 9, 2022. [Docs. 41, 42]. This matter is now ripe for disposition.

After a careful review of the Memorandum and Recommendation, the Court concludes that the Magistrate Judge's proposed conclusions of law are correct and consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation that the Defendants' Partial Motion to Dismiss Plaintiffs' Amended Complaint should be denied and the Defendants' Motion for Judgment on the Pleadings should be granted in part and denied in part

Accordingly, **IT IS, THEREFORE, ORDERED** that the Defendants' Objections [Doc. 40] is **OVERRULED**, and the recommendation of the Magistrate Judge [Doc. 39] is **ACCEPTED**.

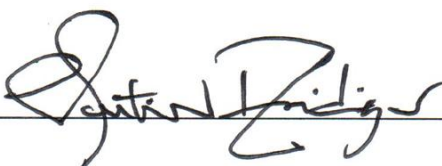
IT IS FURTHER ORDERED that:

(1) The Defendants' Partial Motion to Dismiss Plaintiffs' Amended Complaint [Doc. 26] is **DENIED**;

(2) The Defendants' Motion for Judgment on the Pleadings [Doc. 29] is **GRANTED IN PART** and **DENIED IN PART**. Specifically, the Defendants' Motion [Doc. 29] is **GRANTED** to the extent that the Plaintiffs' claim of negligent training against Associated Petroleum Carriers, Inc. and Petroleum Carriers, Inc. is **DISMISSED WITH PREJUDICE**. In all other respects, the Defendants' Motion [Doc. 29] is **DENIED**.

IT IS SO ORDERED.

Signed: June 9, 2022



Martin Reidinger
Chief United States District Judge

